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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A.No. 422 of 2006
Date of decision:23.11.2006

The Commissioner of Income-tax, Patiala ...Appellant

Versus

Branch Manager, LIC of India, Nabha, Distt. Patiala (Punjab)

...Respondent

CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MR.JUSTICE RAJESH BINDAL

Present:Mr.Ygoesh Putney, Advocate for the appellant.

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JUDGMENT

This appeal has been preferred under Section 260-A of Income Tax Act, 1961 proposing the following substantial question of law arising out of the order dated 12.8.2005 of the Income Tax Appellate Tribunal, Chandigarh Bench 'B', passed in ITA No.182/Chandi/2004 in respect of the assessment year 2000-01:-

> "Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in holding that the payment made to its Development Officers by the LIC of India under the Reimbursement of Expenses Scheme, 1997 is not the income of the assessee and further it is not a part of salary of the recipient D.O. Ignoring the factual position that details of expenses incurred have not been reported to the Branch Manager (Paying Officer) on the basis of which it could be inferred that these allowances were the reimbursement of actual expenses?"

The Assessing Officer initiated proceedings under Section 192 read with Section 201(1A) of the Income Tax Act, 1961 (for short "the Act") against the respondent alleging that he had not made the deduction of tax at source in respect of payments made to Development Officers under the Reimbursement of Expenses Scheme, 1997, which was to be treated as income of the assessee/part of salary paid. Finally, the respondent was

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treated as assessee in default and demand was created against him.

On Appeal CIT(A) set aside the above demand following the order passed in the previous year wherein it was held that payments made by the respondent were towards the reimbursement of actual expenses and the same could not be treated as salary or income and no tax was liable to be deducted therefrom following the decision in the case **Branch Manager, LIC of India, Barnala.**

The Tribunal affirmed the view of the CIT(A) following its decision dated 30.4.2004 in the case of Branch Manager, LIC of India, Barnala, Samana, Rajpura in ITA Nos.208,209 and 216/Chandi/02.

The issue raised has also been considered by this Court in judgment dated 21.4.2006 passed in ITA No.645 of 2005 (**The Commissioner of Income-tax, Patiala Vs. Branch Manager, LIC of India, Sangrur(Punjab)** wherein after going into the "Reimbursement of Expenses scheme,1997" and judgment of the Rajasthan High Court in **L.I.C. of India Versus Union of India (2003) 260 ITR 41,** the question referred was answered against the Revenue.

The view taken by the Tribunal is in accordance with the view taken by this Court.

Only contention now raised on behalf of the revenue is that the vouchers of expenses incurred by the Development Officers to whom reimbursement was made were not proved and in absence thereof such payments should be treated as income/salary paid to the Development Officers. Reliance has been placed on a judgment of the Karnataka High Court in **K.R.Muralidhar and others Vs. Life Insurance Corporation of India and others** (2005) 274 ITR 459.

We have gone through the judgment relied upon. In the said case, writ petition was filed by the employee against circular issued by the LIC requiring a certificate to be given that the expenditure was actually incurred. The said circular was upheld. It was observed:-

> "The object of such a circular on the face of it appears to be that if the employee really qualifies for the exemption to ensure that a certificate to this effect is issued in favour of the

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employee based on which not only the employee can claim the benefit, but also the employer is relieved of his obligation for deduction of tax at source. A circular of this nature can never be said to be to the detriment of the petitioners. If at all it only enables the petitioners to claim the benefit in terms of clause (14) of section 10 of the Act."

In the said case, the Court was not dealing with the question whether the employer was required to deduct tax at source after treating it to be 'income' of the employee but only as to whether employer could require the employee to certify that expenditure was incurred before payment was made. The said judgment, thus, has no application to the issue involved in the present case.

In view of the above, we do not find that any substantial question of law arises for consideration of this Court.

The appeal is dismissed.

(Adarsh Kumar Goel)
Judge

November 23,2006 **(Rajesh Bindal)**
Pka **Judge**